

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-472-C - ORDER NO. 94-368 *✓c*
MAY 4, 1994

IN RE: Application of STS Networking Systems,)
Inc. d/b/a Scott Communications for a) ORDER
Certificate of Public Convenience and) GRANTING
Necessity to Provide Store and Forward) CERTIFICATE
Telecommunications on an IntraLATA and)
InterLATA Basis within South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed July 28, 1993, by STS Networking Systems d/b/a Scott Communications (STS or the Company) for a Certificate of Public Convenience and Necessity to provide store and forward telecommunications service on an intraLATA and interLATA basis in the State of South Carolina.

By letter dated August 11, 1993, the Commission's Executive Director instructed STS to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the areas affected by the Company's Application. The Notice of Filing indicated the nature of STS's Application and advised all interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. STS submitted an affidavit indicating that it had complied with these instructions. Petitions to Intervene were filed by Southern Bell

Telephone and Telegraph Company (Southern Bell), the Consumer Advocate for the State of South Carolina (the Consumer Advocate), and Peoples Telephone Company, Inc. (Peoples).

On March 16, 1994, a public hearing concerning the matters asserted in the Company's Application was held in the Commission's Hearing Room. The Honorable Henry G. Yonce, Chairman, presided. John F. Beach, Esquire and Robert D. Coble, Esquire appeared on behalf of STS and the Intervenor Peoples. Southern Bell was represented by Harry M. Lightsey, III, Esquire and Mary Jo Peed, Esquire; the Consumer Advocate was represented by Carl F. McIntosh, Esquire; and the Commission Staff (the Staff) was represented by Florence P. Belser, Staff Counsel.

In support of its Application, STS presented the testimony of Joe Hutchinson. Peoples, which intervened in this Docket in support of STS's Application, sponsored the testimony of Steve Alexander, B. Reid Presson, Jr., and Gene R. Stewart. Southern Bell presented the testimony of Patricia S. Cowart.

After thorough consideration of the Company's Application, the evidence presented at the hearing, and the applicable law, the Commission issues the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On July 28, 1993, STS filed with the Commission an Application seeking authorization to provide store and forward telecommunications service on an intraLATA and interLATA basis within the State of South Carolina.

2. STS is a privately held corporation organized and existing under the laws of the State of North Carolina and is authorized to transact business in South Carolina by the Secretary of State. STS is certificated by the Commission to provide COCOT services in South Carolina by Order Nos. 89-1081 and 91-1096, issued in Docket No. 85-150-C.

3. Store and forward service is currently authorized in South Carolina for "0+" collect store and forward calls on a local, intraLATA, and interLATA basis from confinement facilities.

4. Joe Hutchinson, President of STS, testified on behalf of the Company. Mr. Hutchinson explained STS's request to provide store and forward service. Mr. Hutchinson testified that store and forward calls are carried in the same manner as sent-paid calls, but the store and forward service offers convenient billing alternatives to the public. According to Mr. Hutchinson, providers of store and forward service must invest in a "smart" payphone which contains a computerized mechanism. Mr. Hutchinson stated that the "smart" phone allows the calling party to complete a call without interacting with a "live" operator.

5. Mr. Hutchinson testified that STS has sufficient technical, managerial, and financial resources to provide store and forward service. According to Mr. Hutchinson, STS uses Intellicall smart phones exclusively which would allow STS to provide store and forward service. Mr. Hutchinson also testified that the employees of STS, including himself and his wife, have the necessary experience to provide excellent service to their

customers.

6. Mr. Hutchinson also offered that approval of the Application would serve the public interest by encouraging the installation of payphones in areas and at locations where phones are not placed by local exchange companies (LECs) or where LECs have removed phones because of revenue requirements.

7. B. Reid Presson, Jr., Vice President of Regulatory Affairs for Intellicall, Inc., testified for Peoples in support of STS's request for authority. Mr. Presson provided a description of store and forward technology. Mr. Presson also testified that store and forward technology increased availability of public communications services as it enabled payphone owners to place phones in marginal locations where no payphones were available or where payphones had been removed by local exchange carriers. Mr. Presson also stated that if the Commission authorizes competition in the 0+ intraLATA market that the Commission would also need to direct the LECs to provide payphone owners with billing and collection services.

8. Steve Alexander, Director of Regulatory Affairs of Peoples, also testified in support of STS's request for authority. Mr. Alexander testified that Peoples is authorized to provide COCOT services, resold telecommunications services, and inmate telephone services in South Carolina, and that Peoples provides pay telephone service in 47 states, resold telecommunications services in 11 states, and inmate telephone services in 13 states. Mr. Alexander stated that store and forward service has allowed

Peoples to install payphones in locations which could not otherwise justify a payphone. Mr. Alexander also testified that the LECs will earn revenues on every local and intraLATA store and forward call, as well as revenues from new, stimulated usage from the placement of new telephones through access line charges, usage-sensitive charges, billing charges, and validation charges. Mr. Alexander also states that if the Commission authorizes the use of store and forward service as requested that the Commission also require the LECs to provide billing and collections services for 0+ providers at the rate applicable for interexchange carriers.

9. Also testifying on behalf of Peoples was Gene R. Stewart, owner of Communications Resource Management and President of the South Carolina Public Communications Association (SCPCA). Mr. Stewart testified that a significant number of SCPCA members are interested in providing store and forward service in South Carolina. Mr. Stewart testified that the Commission has historically ruled in such a way as to maintain a condition of parity between LEC payphones and COCOT payphones. Mr. Stewart stated that authorizing store and forward service will not insure complete parity, but it will alleviate some of the still existing inequities between LECs and private payphone owners. According to Mr. Stewart, authorization of store and forward service on a local and intraLATA basis would give private payphone owners the ability to earn a small stream of revenue on these classes of calls if the private payphone owners choose to make the investment in the

necessary equipment. Mr. Stewart also testified that the Commission would need to waive COCOT Guidelines 13, 20, and 24, as well as waive Operator Service Provider Guideline Section II. C.

10. Patricia S. Cowart, Staff Manager of the Pricing Department for Southern Bell, testified in opposition to STS's request. Ms. Cowart testified that in South Carolina Southern Bell derives over \$1.5 million dollars from operator handled calls from COCOTs. Ms. Cowart stated that a significant portion of this revenue from the COCOTs provides contribution in support of basic local exchange service and enables Southern Bell to recover costs associated with non-revenue producing operator assistance calls such as emergency calls, dialing assistance, and 800 assistance. According to Ms. Cowart, authorization of store and forward service would impact a source of revenue which the LECs use to support basic local rates.

11. Hearing Exhibit #1 contained the exhibits attached to Mr. Hutchinson's prefiled testimony. Included in Hearing Exhibit #1 is a revised rate section. This revised rate section includes a \$1.00 property imposed fee (surcharge) in the maximum rate schedule but does not include the \$1.00 property imposed fee in the current price list. Upon questioning by the Commission, counsel for STS conceded that STS would request a tariff revision of that section from the Commission before STS could impose the property imposed surcharge.

CONCLUSIONS

1. To be granted a Certificate of Public Convenience and

Necessity, an Applicant must demonstrate a "public need" for its service and that they are fit, willing, and able to provide the service.

2. The Applicant has shown that it possesses sufficient managerial and financial resources to provide the proposed service. With respect to the technical resources available for providing this type of service, the Commission concludes that the Company possesses the necessary equipment and is technically competent to provide the proposed service. The Company's willingness to provide the service has been demonstrated by the filing of its Application and by its participation in these proceedings. Therefore, the Commission concludes that STS is fit, willing, and able to provide the proposed service.

3. The Commission takes notice of its prior decision where "0+" collect store and forward service was approved for calling from confinement facilities. See, Order No. 91-122, dated March 4, 1991, in Docket No. 90-305-C. The Applicant seeks to broaden the scope of store and forward service to include "0+" credit card calls and to allow store and forward service to be offered from privately owned payphones outside of the confinement facilities.

4. The Applicant presented testimony requesting that it be granted authority to provide store and forward service on a local, intraLATA, and interLATA basis. The Application filed by STS requested that it be granted authority to provide store and forward telecommunications service on an intraLATA and interLATA basis. During the hearing STS requested that it be allowed to

amend the Application to conform to the evidence presented during the hearing. At the close of the hearing, Southern Bell made a motion that the Application be denied based on the fact that the Application requested intraLATA and interLATA authority, and the evidence at the hearing requested local, intraLATA, and interLATA authority.

The Commission denies STS's Motion to Amend the Application to conform to the evidence and likewise denies Southern Bell's Motion to dismiss the Application. Since the Application did not request local authority, the public notice which was issued contained only notice that STS was seeking intraLATA and interLATA authority. As proper notice of the request for local authority was not afforded to the public, the Commission cannot allow the Application to be amended to conform to the evidence at the hearing.

Further, the Commission sees no reason to deny the entire Application on the fact that the evidence presented at the hearing exceeded the scope of the authority requested in the Application. Proper public notice was given on the request for intraLATA and interLATA authority, and the Commission will proceed to consider the Company's request as contained in the Application.

5. Southern Bell also made a motion to deny the Application based on the testimony that the Company was in fact seeking a rule change which would affect all COCOT providers in South Carolina. Southern Bell offered that such a rule change should be noticed and addressed in a separate proceeding. The Commission denies

Southern Bell's Motion to Dismiss. The Commission determines that this proceeding is not a rulemaking proceeding but is an application for authority which requests the waiver of certain Commission guidelines.

6. Based on the evidence presented at the hearing, the Commission is not convinced that approval of "0+" collect and "0+" credit card store and forward service on an intraLATA and interLATA basis will not adversely affect local rates for the LECs. Ms. Cowart of Southern Bell testified that a significant portion of the revenues derived from operator calls from COCOTs provides contribution in support of basic local exchange service and helps recover the cost of non-revenue producing operator assistance calls. While the supporters of the Application testified that the LECs will continue to receive a revenue stream from the COCOTs with store and forward service, it appears that the potential exists that LEC revenues could be less than what the LECs currently receive. The supporters of the Application rely on the assertion that stimulation of usage to support their contention that the revenue stream will continue.

7. The Commission is charged with the responsibility of balancing competing interests and positions and making an informed decision. While the Commission is impressed with the technology associated with store and forward service, and the potential benefits of store and forward service to the public, the Commission is also concerned about the potential loss of revenues which Southern Bell and the other LECs use to support the cost of

basic local service. Therefore, in balancing these competing interests, the Commission concludes that approval of STS to provide "0+" collect store and forward service on an intraLATA and interLATA basis through its pay telephones is in the public interest. This decision will expand the existing scope of store and forward service as it presently exists in South Carolina from confinement facilities to allow STS to provide "0+" collect store and forward service on an intraLATA and interLATA basis.

8. With this decision to allow STS to provide "0+" collect store and forward service on an intraLATA and interLATA basis, the Commission grants a waiver of those portions of COCOT Guidelines 13, 20, and 24, as well as a waiver of portions of the OSP Guideline II. C to the extent necessary to conform with the authority granted herein. With the exception of those guidelines specifically waived by the Commission, STS shall comply with all other Commission guidelines pertaining to COCOT services and OSP services.

9. Based on the nature of the store and forward technology and in line with the Commission's prior decision authorizing store and forward service from confinement facilities, the Commission concludes that the local exchange companies should bill and collect for STS for providing "0+" intraLATA and interLATA collect calls at the applicable rate for interexchange carriers.

10. The rates charged for such store and forward "0+" collect calls on an intraLATA basis shall be no more than the rates charged by the LEC for intraLATA operator assisted calls at

the time such call is completed.

11. The rates charged for such store and forward "0+" collect calls on an interLATA basis shall be no more than the rates charged for interLATA operator assisted calls by AT&T Communications at the time such call is completed.

12. The Commission adopts a rate design for STS which includes only maximum rate levels for each tariff charge, with the restrictions of paragraphs 10 and 11 above duly incorporated. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket 84-10-C (August 2, 1984).

13. STS shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. STS shall file its proposed changes, publish its notices of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communication, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of STS's subscribers shall constitute a general

ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1993).

14. STS is required to brand all calls so that they are identified as the carrier of such calls to the called party.

15. A "0+" store and forward collect call should be completed only upon affirmative acceptance of the charges from the called party.

16. Call detail information submitted by STS to the LECs for billing must include the COCOT access line number assigned to the line by the local exchange company.

17. The bill provided to the called party should provide the name of the Company and a toll-free number for contacting the Company concerning any billing or service questions.

18. STS may only use such underlying carriers for the provision of interLATA telecommunications service as are certified by this Commission to provide such service, and STS shall notify the Commission in writing as to their underlying carrier or carriers and of any change in their carrier.

19. STS is subject to any applicable access charges pursuant to Commission Order No. 86-584.

20. STS is required to file with the Commission surveillance reports on a calendar or fiscal year basis as required by Order No. 88-178, in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A, attached hereto and incorporated by reference herein.

21. Based on the revised tariff pages in Hearing Exhibit #1, and the concession made by STS's counsel regarding the property imposed fee, STS may not charge a property imposed fee at this time. Should STS desire to charge a property imposed fee in the future, it shall request a rate change of the Commission and provide proper public notice of the imposition of such a fee.

22. STS shall file its tariff and an accompanying price list of current charges in accordance with the findings and conclusions of this Order within thirty (30) days of the date of this Order. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

IT IS THEREFORE ORDERED:

1. That STS be granted a Certificate of Public Convenience and Necessity to offer "0+" collect store and forward telecommunications services on an intraLATA and interLATA basis.

2. That the rates and charges for such service are subject to the restrictions enunciated herein.

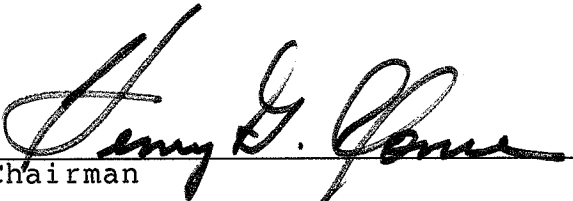
3. That local exchange companies are required to provide billing and collection services to STS for "0+" collect store and forward service at the applicable rate for interexchange carriers.

4. That STS's Motion to Conform the Application to the evidence presented at the hearing is denied.

5. That Southern Bell's Motions to Dismiss the Applications are denied.

6. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

DISSENT: (Commissioner Rowell and Commissioner Maybank)

We respectfully dissent from the majority of the Commission. We would authorize STS to provide store and forward "0+" collect and "0+" credit card calls on an intraLATA and interLATA basis. We agree with the majority of the Commission that STS is fit, willing, and able to provide store and forward service in South Carolina. We further agree that STS should not be granted local authority to provide store and forward service as local authority was not requested in the Application and not properly noticed to the public.

However, based on our view of the evidence presented at the hearing, we believe STS should be granted intraLATA and interLATA authority. The amount of Southern Bell's potential loss estimated at \$1.5 million dollars was not well documented in the record and would occur only if all COCOTs take their intraLATA business from Southern Bell. At this time, STS's authority to provide store and

forward service would not impact negatively on Southern Bell as STS is not currently providing service in the Southern Bell service area. Furthermore, Southern Bell or another LEC could install their own "smart" phones to capture the intraLATA business so long as the interLATA call was completed by the carrier of choice of the property owner. Additionally, we do not believe that Southern Bell made an adequate showing that this type of competition would negatively impact on local rates. In fact, the record is absent any substantive testimony regarding local rates. Also, the Commission Staff is currently conducting an investigation of "overearning" by Southern Bell.

In our opinion, the benefits offered by store and forward service outweigh the negative aspects. Southern Bell and the other LECs will continue to receive some revenues from these types of calls in the form of line access charges, billing charges, and verification charges, as well as by stimulation of usage. The public will benefit by an increased number of payphones in areas which may be considered marginal or unprofitable, thus making more telephones available to the public.

Southern Bell also stands to benefit from the authorization of store and forward service. Legislation has passed the General Assembly, and has been signed by the Governor, which would allow the Commission to consider regulatory alternatives in determining rates for local exchange telephone utilities. Under this new legislation, the Commission must determine that the telephone utility is subject to competition with respect to its services.

Approval of store and forward service could assist Southern Bell in qualifying for alternative regulation under the proposed legislation.

For the foregoing reasons, we would approve STS's request to provide "0+" collect and "0+" credit card store and forward service on an intraLATA and interLATA basis.

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR
ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).